

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

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**JOSEPH PAGAN,**

**Plaintiff,**

**v.**

**C.I. LOBSTER CORP., JOSEPH  
MANDARINO, RICHARD MANDARINO,  
and JOHN MANDARINO,**

**Defendants.**

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: **Civil Action No. 20-CV-7349 (ALC)**  
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**AFFIDAVIT OF JOSEPH PAGAN IN SUPPORT OF MOTION FOR CONDITIONAL  
CERTIFICATION UNDER THE FLSA, 29 U.S.C. § 216(b)**

Joseph Pagan, being duly sworn, deposes and says:

1. My name is Joseph Pagan. I am the plaintiff in this action. I am fully competent to make this affidavit and I have personal knowledge of the facts stated in this affidavit. To my knowledge, all the facts stated in this affidavit are true and correct.
2. Defendants operate a restaurant at 691 Bridge St, Bronx, NY referred to as “City Island Lobster House.”
3. During my employment with the Defendants from around March 2019 to March 17, 2020, I worked as a server who waited on tables and brought food and drinks to customers.
4. I observed that there were numerous other employees who performed similar job duties to me, including other servers, such as Anthony D’Agostino, Steve (last name unknown), and Ben (last name unknown).
5. The job positions at the restaurant included: 1) servers; 2) bussers, who took dishes away, filled up water and brought salad; 3) bartenders; 4) cooks; 5) dishwashers; 6) porters, who

cleaned windows and swept up; and 7) valets, who parked cars. Out of these positions, the tipped positions included: servers, bussers, bartenders, and valets.

6. Servers complained on Friday nights after receiving their pay (Friday was payday) to Defendant John Mandarino about not getting paid for all the hours that they worked and not getting overtime. This occurred on a weekly basis and generally all servers complained on any given Friday.

7. During my employment, servers Anthony D'Agostino, Steve, and Ben complained about not getting paid for all the hours that they worked to Defendant John Mandarino, who had the power to hire and fire the restaurant's employees, on a weekly basis.

8. During my employment, only three people who served tables did not complain about not getting paid for all their hours or overtime – Victor Navarro, who was also a manager and could hire and fire employees; Oscar Navarro (Victor's brother); and Oscar Navarro's son.

9. A few times during my employment, I observed Victor Navarro clock out a number of servers before the end of their shifts.

10. Defendants required me and all the other servers to share tips with Defendant Richard Mandarino, who prepared salads, did not provide customer service, and had the power to hire and fire employees of Defendants.

11. I did not receive an extra hour of pay at the minimum wage rate for working shifts lasting longer than ten (10) hours per day, and, to my knowledge, neither did any other servers or workers employed by Defendants. On a weekly basis on Fridays after receiving pay, I specifically mentioned to Laundel Booker, Anthony D'Agostino, and Steve that I did not receive an extra hour of pay for working longer than ten (10) hours per day and they said they did not either.

12. Defendants did not post any notices regarding wages or hours worked at the restaurant.

13. Pursuant to 28 U.S.C. § 1746, I hereby declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: New York, New York  
February 10, 2022

*Joseph Pagan*

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Joseph Pagan